

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOE ANTHONY VALDEZ, JR., #1580898 §
VS. § CIVIL ACTION NO. 6:11cv651
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

Petitioner Joe Anthony Valdez, Jr., an inmate confined at the Michael Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging a prison disciplinary case. The petition was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be denied. Petitioner has filed objections.

“Federal habeas relief cannot be had absent the allegation by a plaintiff that he or she has been deprived of some right secured to him or her by the United States Constitution or the laws of the United States.” *Malchi v. Thaler*, 211 F.3d 953, 957 (5th Cir. 2000) (citation and internal quotation marks omitted). Petitioner has a criminal conviction for an offense which makes him ineligible for release on mandatory supervision. The Texas Court of Criminal Appeals analyzed Texas law and specifically found that he is not eligible for release on mandatory supervision. *Ex parte Valdez*, 401 S.W.3d 651, 656 (Tex. Crim. App. 2013). The punishment imposed in Petitioner’s disciplinary case does not involve a protected liberty interest under the Due Process Clause because he is not eligible for release on mandatory supervision. *Sanders v. Smith*, 111 F. App’x 752 n.1 (5th Cir. 2004). Federal habeas relief is unavailable because Petitioner’s disciplinary case does not involve a right secured by the United States Constitution or the laws of the United States.

In his objections, Petitioner disputes the conclusion that he is not eligible for release on mandatory supervision, but this Court must defer to the state court’s interpretation of its own law.

Arnold v. Cockrell, 306 F.3d 277, 279 (5th Cir. 2002). Because Petitioner does not have a protected liberty interest, the Court does not need to discuss the remainder of his objections concerning the merits of his claims.


The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #57) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 24th day of September, 2014.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE